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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,217	08/02/2006	Jurgen Tropsch	293775US0PCT	5753
22850	7590	12/26/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
POWERS, FIONA				
ART UNIT		PAPER NUMBER		
1626				
NOTIFICATION DATE		DELIVERY MODE		
12/26/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/588,217

Applicant(s)

TROPSCH ET AL.

Examiner

Fiona T. Powers

Art Unit

1626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-18 is/are pending in the application.
- 4a) Of the above claim(s) 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-08)
- Paper No(s)/Mail Date 11/1/06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Receipt is acknowledged of the information disclosure statement filed November 1, 2006 and the preliminary amendment filed August 2, 2006, which have been entered in the file.

Applicant's election with traverse of Group I, claim 11, in the reply filed on October 16, 2008 is acknowledged. The traversal is on the ground(s) that U.S. Patent 4,726,915 does not disclose all characteristic features of the alkyl ether sulfate salt of general formula (I) according to claim 11 of the present application. This is not found persuasive because this patent discloses compounds encompassed by the formula (I) in instant claim 11. Note the specific examples in column 2, lines 49 to 56. Since these compounds are encompassed by the claimed formula (I) they would be expected to also have the quotient A of the critical micelle concentration set forth in claim 11.

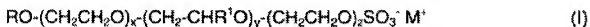
The requirement is still deemed proper and is therefore made FINAL.

Claims 12 to 18 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 16, 2008.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no antecedent basis in the specification for general formula (I) as set forth in claim 11. The general formula at page 2, line 7 of the specification is shown below:



This formula is different from the general formula (I) that is set forth in claim 11.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Verdicchio (US 4726915), of record.

The reference discloses the claimed alky ether sulfate salt of the general formula I wherein R is C₁₀ alkyl; R¹ is methyl; M⁺ is an alkali metal; y is 1 or 2 and z is 4. Note column 2, lines 14 to 29 and in particular column 2, lines 49 to 56.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Verdicchio (US 4726915).

Determination of the scope and content of the prior art (MPEP §2141.01)

The reference discloses structurally similar compounds that are useful for detergent and cleansing compositions. The compounds of the reference are structurally similar to the claimed compounds of the general formula (I) wherein R is C₁₀ alkyl; R¹ is methyl; M⁺ is an alkali metal or HNR₃²⁺; y is 1 or 2 and z is 4. Note column 2, lines 14 to 29 and in particular column 2, lines 49 to 56.

Ascertainment of the difference between the prior art and the claims (MPEP §2141.02)

The compounds of the reference differ from those claimed only in that M^+ is an alkali metal cation instead of HNR_3^{2+} .

Finding of prima facie obviousness--rational and motivation (MPEP §2142-2413)

However, the reference discloses the interchangeability of alkali metal cations with alkanolamines. Note the definition of M in column 2, lines 26 to 27. One of ordinary skill in the art would have been motivated to make the claimed compounds with the expectation that additional compounds useful for detergent and cleansing compositions would be obtained. The claimed alkyl ether sulfate salts would have been rendered obvious by the structurally similar compounds of the reference in the absence of any unobvious property.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weil et al. (US 3843706), cited by applicants.

Determination of the scope and content of the prior art (MPEP §2141.01)

The reference discloses structurally similar compounds that are useful as biodegradable detergents. The compounds of the reference are structurally similar to the claimed compounds of the general formula (I) wherein R is $C_{10}-C_{15}$ alkyl; R^1 is methyl; M^+ is an alkali metal; y is 1 and z is 2. Note the second and fourth compounds listed in Table IV in column 5.

Ascertainment of the difference between the prior art and the claims (MPEP §2141.02)

The compounds of the reference differ from those claimed in that they are homologs. The $(\text{CH}_2\text{CH}_2\text{O})$ group of the claimed compounds has been replaced by a $(\text{CH}_2\text{CH}(\text{CH}_3)\text{O})$ group.

Finding of prima facie obviousness---rational and motivation (MPEP §2142-2413)

It has been held that it is obvious to replace a lower alkyl group with a hydrogen atom and vice versa. See In re Wood, 199 USPQ 137, for example. The claimed compounds would have been rendered obvious by the homologs of the reference in the absence of any unobvious property.

No claim is allowed.

The references made of record and not relied upon show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fiona T. Powers whose telephone number is 571-272-0702. The examiner can normally be reached on Monday - Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fiona T. Powers/
Primary Examiner, Art Unit
1626

ftp
December 20, 2008